

Act No. 176
Public Acts of 1995
Approved by the Governor
October 17, 1995
Filed with the Secretary of State
October 17, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Senator Steil

ENROLLED SENATE BILL No. 551

AN ACT to amend sections 1, 1a, 11, 17l, 18, 19a, and 20d of Act No. 240 of the Public Acts of 1943, entitled as amended "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection therewith and to require contributions thereto by state employees and by the state; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state officers and agencies; and to provide penalties for the violation of certain provisions of this act," sections 1 and 18 as amended by Act No. 177 of the Public Acts of 1990, section 11 as amended by Act No. 57 of the Public Acts of 1987, section 17l as added by Act No. 195 of the Public Acts of 1993, section 19a as added by Act No. 3 of the Public Acts of 1984, and section 20d as amended by Act No. 241 of the Public Acts of 1987, being sections 38.1, 38.1a, 38.11, 38.17l, 38.18, 38.19a, and 38.20d of the Michigan Compiled Laws; and to add sections 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, and 49.

The People of the State of Michigan enact:

Section 1. Sections 1, 1a, 11, 17l, 18, 19a, and 20d of Act No. 240 of the Public Acts of 1943, sections 1 and 18 as amended by Act No. 177 of the Public Acts of 1990, section 11 as amended by Act No. 57 of the Public Acts of 1987, section 17l as added by Act No. 195 of the Public Acts of 1993, section 19a as added by Act No. 3 of the Public Acts of 1984, and section 20d as amended by Act No. 241 of the Public Acts of 1987, being sections 38.1, 38.1a, 38.11, 38.17l, 38.18, 38.19a, and 38.20d of the Michigan Compiled Laws, are amended and sections 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, and 49 are added to read as follows:

Sec. 1. (1) This act shall be known and may be cited as the "state employees' retirement act".

(2) For the purposes of this act, the words and phrases defined in sections 1a to 1i have the meanings ascribed to them in those sections.

Sec. 1a. (1) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the employees' savings fund, together with regular interest on that account.

(2) "Actuarial cost" means a single percentage that, when multiplied by a member's fiscal year compensation, will result in the average actuarial present value of the additional benefits resulting from the crediting of 1 additional year of service. This single percentage shall be based on the members who utilize those sections of this act that permit the purchase of service. For purchases of service credit made before December 31, 1990, the single percentage shall be 9%. Beginning December 31, 1990 and every 3 years thereafter, the single percentage shall be computed based upon actual experience. If the computation results in an increase or decrease in the percentage, not less than 6 months' notice shall be given to the members.

(3) "Annuity" means annual payments for life derived from the accumulated contributions of a member. An annuity shall be paid in equal monthly installments.

(4) "Annuity reserve" means the present value, computed upon the basis of mortality and other tables adopted by the retirement board, of all payments to be made on account of an annuity, or benefits in lieu of an annuity, granted to a member under this act.

(5) "Appointing authority" means the departmental officer who has the responsibility of making appointments and handling all other personnel transactions affecting the employees in the agency that the officer represents.

Sec. 1b. (1) "Beneficiary" or "disability beneficiary" means a person other than a retirant who receives a retirement allowance, pension, or other benefit provided by this act.

(2) "Compensation" means the remuneration paid a member on account of the member's services rendered to this state to the extent that the remuneration does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code. If a member's remuneration is not paid totally in money, the retirement board shall employ the maintenance-compensation schedules established from time to time by the civil service commission. Compensation does not include any of the following:

(a) Remuneration paid in lieu of accumulated sick leave.

(b) Remuneration for services rendered after October 1, 1981, payable at retirement or termination under voluntary or involuntary pay reduction plan B, in excess of the amount the member would have received had the member been compensated for those services at the rate of pay in effect at the time those services were performed.

(c) Payment for accrued annual leave at separation in excess of 240 hours.

(d) Remuneration received by an employee of the department of mental health resulting from severance pay received because of the deinstitutionalization of the department of mental health resident population.

(e) Remuneration received as a bonus by investment managers of the department of treasury under the treasury incentive bonus plan first approved by the civil service commission on February 11, 1988, pursuant to section 5 of article XI of the state constitution of 1963.

(f) Remuneration received as a bonus or merit payment by assistant attorneys general in the department of attorney general under the merit pay plan approved by the civil service commission on January 19, 1990, pursuant to section 5 of article XI of the state constitution of 1963.

(3) "Conservation officer" means an employee of the department of natural resources, or its predecessor or successor agency, who has sworn to the prescribed oath of office and who is designated as a peace officer under section 6 of Act No. 192 of the Public Acts of 1929, being section 300.16 of the Michigan Compiled Laws, and section 1 of Act No. 109 of the Public Acts of 1986, being section 300.21 of the Michigan Compiled Laws.

(4) "Credited service" means the sum of the prior service and membership service credited to a member's service account.

Sec. 1c. (1) "Deferred member" means a member who is separated from state service for a reason other than retirement or death and who has satisfied the requirements of section 20(4) or (5) for a deferred retirement allowance.

(2) "Designated temporary layoff" means the layoff of a member that does not exceed 1 month and has a fixed, predetermined, and announced recall date.

(3) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(4) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

Sec. 1d. (1) Except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(2) "Eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(3) "Employee" means a person who may become eligible for membership under this act, as provided in section 13, if the person's compensation is paid in whole or in part by this state.

(4) "Employer" or "state" means this state.

Sec. 1e. (1) "Final average compensation" means the average of those years of highest annual compensation received by a member during a period of 5 consecutive years of credited service; or if the member has less than 5 years of credited service, then the average of the annual compensation received by the member during the member's total years of credited service. For a person whose retirement allowance effective date is on or after October 1, 1987, "final average compensation" means the average of those years of highest annual compensation received by a member during a period of 3 consecutive years of credited service; or if the member has less than 3 years of credited service, then the average of the annual compensation received by the member during the member's total years of credited service. A member's final average compensation shall not be diminished because of required 1-day layoffs. The compensation used in computing the final average compensation for a period during which a member is in a voluntary or involuntary pay reduction plan A or on a designated temporary layoff shall include the value of the hours not worked calculated at the member's hourly rate or rates of pay in effect immediately before the applicable final average compensation period. A member's final average compensation shall not be increased or decreased by the member's participation in voluntary or involuntary pay reduction plan B. Payment for accrued annual leave at separation in excess of 240 hours shall not be included in final average compensation.

(2) "Final compensation" means a member's annual rate of compensation at the time the member last terminates employment with this state.

(3) "Internal revenue code" means the United States internal revenue code of 1986.

Sec. 1f. (1) "Member" means a state employee included in the membership of the retirement system, as provided for in section 13.

(2) "Membership service" means all service rendered after July 1, 1943.

(3) "New member" means a person who becomes a member of this retirement system on or after January 1, 1945.

(4) "Original member" means a person who became a member of this retirement system before January 1, 1945, or as provided in section 18.

Sec. 1g. (1) "Pay reduction plan A" means the plan available to or required of a member during the fiscal years ending on and after September 30, 1981 under which the member may elect to reduce by 1 hour or more in any full-time pay period the number of hours worked with a corresponding reduction in compensation.

(2) "Pay reduction plan B" means the plan available to or required of a member during the fiscal years ending on and after September 30, 1981 under which the member may elect to work an entire full-time pay period, defer compensation for 1 or more of those hours, and accumulate or use the hours for which compensation has been deferred in the same manner as annual leave hours.

(3) "Pension" means annual payments for life payable from funds of the retirement system as provided in this act. A pension shall be paid in equal monthly installments.

(4) "Pension reserve" means the present value, computed upon the basis of mortality and other tables adopted by the retirement board, of all payments to be made on account of a pension, or benefits in lieu of a pension, granted to a member under this act.

(5) "Prior service" means all service as a state employee or as an appointed state officer, and as an elected or appointed state official, rendered before July 1, 1943.

Sec. 1h. (1) "Regular interest" means a rate or rates per annum, compounded annually, as the retirement board determines. For the purposes of employee refunds, the interest rate payable shall not exceed 4% per annum, compounded annually.

(2) "Retirant" means a person who has ceased to be a member of the retirement system by reason of retirement with a pension or retirement allowance payable from the funds of the retirement system.

(3) "Retirement allowance" means the sum of the annuity and the pension.

(4) "Retirement board" means the board provided for in section 2 to administer the retirement system.

(5) "Retirement system" means the state employees' retirement system created by section 2.

Sec. 1i. (1) "Service" means service rendered to this state by an elected or appointed state official or employee of this state. Credit for service shall be determined by appropriate rules and regulations of the retirement board, but not more than 1 year of service shall be creditable for all service in 1 calendar year. The retirement board shall not allow credit for service for any period of more than 1 month in any 1 calendar year during which the employee was absent

without pay. However, full service credit shall be given for a period during which an employee is on leave of absence and is receiving worker's compensation benefits as the result of a duty-incurred disability. Full service credit shall also be given to an employee for required 1-day layoffs, for voluntary or involuntary participation in pay reduction plan A, pay reduction plan B, or both, in effect during the fiscal years ending on and after September 30, 1981, and for required and designated temporary layoffs.

(2) "State treasurer" means the treasurer of this state.

Sec. 11. (1) There is created the employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund.

(2) The employees' savings fund is the fund in which shall be accumulated at regular interest the contributions to the retirement system deducted from the compensation of members. The retirement board shall provide for the maintenance of an individual account for each member that shows the amount of the member's contributions together with interest on those contributions. The accumulated contributions of a member returned to the member upon his or her withdrawal from service, or paid to the member's estate or designated beneficiary in the event of the member's death, as provided in this act, shall be paid from the employees' savings fund. Any accumulated contributions not claimed by a member or the member's legal representative as provided in this act within 5 years after the member's separation from state service shall be transferred from the employees' savings fund to the income fund. The accumulated contributions of a member, upon the member's retirement, shall be transferred from the employees' savings fund to the pension reserve fund.

(3) The employer's accumulation fund is the fund in which shall be accumulated the reserves derived from money provided by this state for the payment of all retirement allowances to be payable to retirants and beneficiaries as provided in this act. The amounts paid by this state shall be credited to the employer's accumulation fund. Upon the retirement of a member, or upon the member's death, if a beneficiary is entitled to a retirement allowance payable from funds of the retirement system, the difference between the reserve for the retirement allowance to be paid on account of the member's retirement or death and the member's accumulated contributions standing to his or her credit in the employees' savings fund at the time of his or her retirement or death shall be transferred from the employer's accumulation fund to the pension reserve fund. If, in any year, the pension reserve fund is insufficient to cover the reserves for retirement allowances and other benefits being paid from the fund, the amount or amounts of the insufficiency or insufficiencies shall be transferred from the employer's accumulation fund to the pension reserve fund.

(4) The annuity reserve fund is the fund from which shall be paid all annuities, or benefits in lieu of annuities, because of which reserves have been transferred from the employees' savings fund to the annuity reserve fund. Upon the adoption of this act, the balance in the annuity reserve fund shall be transferred to the pension reserve fund, and the annuities heretofore payable from the annuity reserve fund shall thereafter become payable from the pension reserve fund.

(5) The pension reserve fund is the fund from which shall be paid all retirement allowances and benefits in lieu of pensions, as provided in this act. For a disability retirant returned to active service with this state, his or her pension reserve, computed as of the date of return, shall be transferred from the pension reserve fund to the employees' savings fund and the employer's accumulation fund in the proportion that this reserve, as of the date of his or her retirement, was transferred to the pension reserve fund from the employees' savings fund and from the employer's accumulation fund. The amounts transferred to the employees' savings fund under this section shall be credited to the member's individual account in the fund.

(6) An income fund is created for the purpose of crediting regular interest on the amounts in the various other funds of the retirement system with the exception of the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. Transfers for special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of the fund as evidenced by a resolution of the retirement board recorded in its minutes. The retirement board shall annually allow regular interest for the preceding year to each of the funds enumerated in subsections (2), (3), (4), (5), and (8), and the amount allowed under this subsection shall be due and payable to each of these funds and shall be annually credited to the funds by the retirement board and paid from the income fund. However, interest on contributions from members within a calendar year shall begin on the first day of the next calendar year, and shall be credited at the end of the calendar year. All income, interest, and dividends derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement board is authorized to accept gifts and bequests. Any funds that come into the possession of the retirement system as a gift or bequest, or any funds that may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other money the disposition of which is not otherwise provided for in this act shall be credited to the income fund.

(7) The expense fund is the fund from which shall be paid the expenses of the administration of this act, exclusive of amounts payable as retirement allowances and other benefits provided for in this act. The legislature shall appropriate the funds necessary to defray and cover the expenses of administering this act.

(8) The health insurance reserve fund is the fund into which appropriations made by the legislature for health, dental, and vision insurance premiums are paid. Health, dental, and vision insurance premiums payable pursuant to section 20d shall be paid from the health insurance reserve fund.

(9) The description of the various funds in this section shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of assets credited to the various funds of the retirement system.

Sec. 17l. (1) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer in order to qualify for a retirement allowance under this act may purchase additional service credit under this subsection. A member who purchases additional service credit shall contribute within 10 years after the effective date of the transfer an amount equal to the product of the following:

(a) Ten less the number of years and fraction of a year of that employee's credited service.

(b) The employee's full-time or equated full-time fiscal year compensation for the last fiscal year before the effective date of the transfer.

(c) The actuarial cost percentage determined under section 1a for the year in which the effective date of the transfer occurred.

(2) Not more than 5 years of additional service credit may be purchased under this section.

Sec. 18. (1) A member of the retirement system who, while an employee of this state, was or who is drafted or enlisted into active military or other armed service of the United States government during time of war, or a member who is drafted or enlisted into active armed service during time of peace, and who returns for reemployment as a state employee within 6 months after the member's discharge from active service, or if hospitalized at date of discharge, returns for reemployment as a state employee within 6 months after release from the military facility, shall have all that active service credited as a member of the retirement system, in the same manner as if the member had served the state uninterrupted but not more than 5 years of that service may be credited to a member. During the period of active service, and until return to state employment, the member's contributions to the employee's savings fund shall be suspended and the balance in the employees' savings fund standing to the member's credit as of the last payroll date preceding the leave of absence from the service of the member's department shall be accumulated at regular interest. If the member withdraws all or part of the accumulated contributions from the employees' savings fund, the active service shall not be credited until the member returns to the fund all amounts the member withdrew, together with regular interest computed from the date of withdrawal to the date of repayment.

(2) On or after January 1, 1978 a member of this retirement system who does not meet the requirements of subsection (1) and who was drafted, enlisted, inducted, or commissioned into active duty with the military or other armed service of the United States government may elect to receive service credit for not more than 5 years of active duty upon request and payment to the retirement system of an amount equal to 5% of the member's full-time compensation for the fiscal year in which payment is made multiplied by the years of service that the member elects to purchase up to the maximum. Service shall not be credited if it is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction does not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve. Armed service shall not be credited under this subsection until the member has accumulated the number of years of credited service needed to vest in the retirement system. Armed service under this subsection shall not be creditable to a member on deferred retirement status under section 20(4) before May 18, 1978. For purposes of computing payment under this subsection, the compensation amount used shall not be less than the highest fiscal year compensation previously received by the member.

(3) A person who was in the employ of the Michigan employment service on January 1, 1942, the date on which the employment service and its personnel were taken over by the United States employment service, and who continued in the employ of the United States employment service or who was temporarily taken out of the United States employment service for service in the war manpower commission or other government agency engaged in the prosecution of the war and later returned to the United States employment service, and whose service to the state, United States government, and state again was continuous and who was in the employ either of the United States employment service or of this state on November 16, 1946, the date on which the employment service was returned to the state, and who reentered state service on or before that date, shall upon his reentry into the state service become an original member of the retirement system, and shall receive full service credit for the period during which the personnel of the Michigan employment service was taken over by the United States employment service.

(4) A person who entered into the employ of the Michigan employment service while the employment service was under the United States employment service and who retires after April 30, 1978, may receive service credit for the service under the United States employment service by contributing to the retirement system contributions the person would have made from July 1, 1943, to November 16, 1946, as if that service were rendered as a state employee, plus the interest with which the contributions would have been credited from the January following the year of employment to the date of repayment. The salary on which contributions are based shall be the salary received as a state employee on November 16, 1946.

(5) A member who has prior service is entitled to credit for that prior service if at the time of retirement the member has 15 or more years of total service, of which the last 5 are continuous years of service and if the member contributions equal the contributions made or that would have been made for not less than 15 years of membership

service. In the computation of unpaid member contributions, the contribution rate will be computed on the member's salary level at retirement or date of payment, whichever first occurs.

Sec. 19a. (1) Notwithstanding section 19, a member who is employed by the state on May 1, 1984 may retire and receive a retirement allowance computed according to section 20 if the member satisfies all of the following requirements:

- (a) On the effective date of his or her retirement, 1 of the following applies:
 - (i) The member has attained age 60 and has 10 or more years of credited service.
 - (ii) The member's combined age and length of credited service is equal to or greater than 80 years, and the member has attained age 50.
- (b) The member is not a supplemental member as defined in section 45.
- (c) The member was employed by the state for the 6-month period immediately preceding May 1, 1984. This subdivision shall not apply to a member who had been restored to active service during that 6-month period pursuant to section 33.
- (d) The member files a written application with the retirement board, on or after May 1, 1984 but not later than June 1, 1984, stating a date, which date shall be on or after June 2, 1984 but not later than September 30, 1984, on which he or she desires to retire.
- (e) The member agrees to the conditions stated in subsection (3).

(2) A member who retires under this section, and who at the time of his or her retirement has not attained age 62 years, shall receive a monthly retirement allowance supplement for each month, including any fraction of a month, until the retirant attains age 62 years. The amount of the monthly retirement allowance supplement shall be based upon the annual rate of base salary of the retirant as of the pay period immediately preceding the date of retirement, according to the following schedule:

Annual Base Salary	Monthly Retirement Allowance Supplement
Less than \$10,000.00	\$240.00
At least \$10,000.00 but not more than \$19,999.99	\$280.00
At least \$20,000.00 but not more than \$29,999.99	\$320.00
At least \$30,000.00	\$360.00

A payment shall not be made under this subsection for any month for which the retirant is paid, on account of his or her state employment, worker's compensation benefits, unemployment compensation benefits, long or short term disability benefits, federal social security benefits, Michigan state employees' retirement system disability benefits, state salary, or receiving remuneration for any contractual services provided to the state certified under section 18(1)(d) of former Act No. 18 of the Public Acts of 1981.

(3) Any amount which a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments.

(4) Payment of retirement allowances, retirement allowance supplements, and installment payments on account of accumulated sick leave to retirants under this section shall be made by the retirement system. Except as provided in subsection (7), each principal department shall pay to the retirement system for employees of that department who retire under this section an amount sufficient to cover all of the following:

(a) Retirement allowances payable to each individual who retires under this section before having attained age 60 years, until the retirant attains age 60 years, or in the event of a survivor allowance payable under section 31(1)(a), until the retirant would have attained age 60 years. This amount shall be paid from the account established in that department under subsection (6). In the absence of sufficient funds in the account established under subsection (6), this amount shall be paid from other funds available to the department.

(b) Retirement allowance supplements payable under this section. This amount shall be paid from the account established in that department under subsection (6). In the absence of sufficient funds in the account established under subsection (6), this amount shall be paid from other funds available to the department.

(c) Installment payments on account of accumulated sick leave payable under subsection (3). This amount shall be paid from money available to the department for that purpose.

(5) Notwithstanding section 1h(2), a member who retires under this section shall be considered a retirant for purposes of receiving benefits under this act.

(6) Except as otherwise provided in this subsection, each principal department shall deposit into a separate departmental account the 1983-84 and 1984-85 fiscal year appropriations for salaries, wages, longevity payments, group insurance payments, retirement fund contributions, and social security employer contributions, which would have been paid to or on behalf of each employee who retires under this section, for use as follows:

- (a) Payments to the retirement system as provided in subsection (4)(a) and (b) shall be made from the account.

(b) Installment payments to a retirant under subsection (3) and payments to the retirement system under subsection (4)(c) shall not be made from the account.

(c) Expenditures may be made from the account as provided in section 33 of former Act No. 18 of the Public Acts of 1981.

Deposits shall not be required under this subsection for employees of the Michigan employment security commission who retire under this section.

(7) The Michigan employment security commission shall pay to the retirement system monthly, from money available to that commission, an amount sufficient to cover the items enumerated in subsection (4)(a), (b), and (c), for employees of the Michigan employment security commission who retire under this section.

(8) For the purpose of qualifying for retirement under subsection (1)(a), or receiving a retirement allowance under this section, or both, a member who participated in pay reduction plan C may receive service credit for such leave of absence upon payment to the retirement system of an amount actuarially determined by the board, but which shall be not less than 5% of the member's full-time biweekly compensation for the fiscal year in which payment is made multiplied by the number of biweekly pay periods for which the member participated in pay reduction plan C and which the member is eligible to purchase under this subsection. For purposes of this subsection, "pay reduction plan C" means the plan available to a member during the fiscal years ending on or after September 30, 1981, under which the member may elect to take a leave of absence without pay for a duration of not less than 1 pay period. A member shall not be eligible to receive service credit under this subsection for more than 13 biweekly pay periods.

(9) If a person who retired under this section dies after the effective date of his or her retirement but before having attained age 62 years, the monthly retirement allowance supplement otherwise payable to the retirant under subsection (2) shall be paid as follows:

(a) Except as provided by subdivision (b), to the person or persons nominated for that purpose by the retirant by written designation duly executed and filed with the board. Payment shall be made by monthly installments in the manner provided under subsection (2), until the retirant would have attained age 62 years.

(b) If the retirant failed to execute and file a written nomination or nominated his or her estate, or if the person or persons nominated predecease the retirant, to the retirant's personal representative in a lump sum equal to the difference between the total amount the retirant would have received under subsection (2), had he or she attained age 62 years, and the amount actually received by the retirant under subsection (2).

(10) If a member who is eligible for retirement under this section files an application for retirement under subsection (1)(d) and dies prior to the date on which he or she desires to retire, the monthly retirement allowance supplement otherwise payable under subsection (2) shall be paid as follows:

(a) Except as provided by subdivision (b), to the person or persons nominated for that purpose by the member by written designation duly executed and filed with the board. Payment shall be made by monthly installments in the manner provided under subsection (2), until the member would have attained age 62 years.

(b) If the member failed to execute and file a written nomination or nominated his or her estate, or if the person or persons nominated predecease the member, to the member's personal representative in a lump sum equal to the amount the member would have received under subsection (2) had he or she retired and attained age 62 years.

Sec. 20d. (1) On and after July 1, 1974, hospitalization and medical coverage insurance premium payable by any retirant or his or her beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11. The amount payable shall be in the same proportion of premium payable by the state of Michigan for the classified employees occupying positions in the state civil service. The hospitalization and medical insurance premium payable shall be paid from appropriations made for this purpose to the health insurance reserve fund sufficient to cover the premium payment needed to be made.

(2) Effective January 1, 1988, 90% of the premium payable by a retirant or the retirant's beneficiary and his or her dependents for dental coverage or vision coverage, or both, under any group plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11.

Sec. 49. (1) This section is enacted pursuant to section 401(a) of the internal revenue code that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed the lesser of \$90,000.00 or 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code for retirement occurring at age 62 or older.

(3) The limitation on employer financed benefits provided by the retirement system under subsection (2) applies unless application of subsections (4) and (5) produces a higher limitation, in which case the higher limitation applies.

(4) If a member retires before age 62, the amount of \$90,000.00 in subsection (2) is actuarially reduced to reflect payment before age 62. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subsection. If this subsection produces a limitation of less than \$75,000.00 at age 55, the limitation at age 55 is \$75,000.00 and the limitations for ages under age 55 shall be calculated from a limitation of \$75,000.00 at age 55.

(5) Section 415(d) of the internal revenue code requires the commissioner of internal revenue to adjust the \$90,000.00 limitation in subsection (2) to reflect cost of living increases, beginning with calendar year 1988. This subsection shall be administered using the limitations applicable to each calendar year as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(6) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, vested former members, retirants, and retirement allowance beneficiaries before satisfaction of all retirement system liabilities.

(7) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(8) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires.

(9) If the retirement system is terminated, the interest of the members, vested former members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code and related internal revenue service regulations applicable to governmental plans.

(10) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(11) For purposes of determining actuarial equivalent retirement allowances under sections 31(1)(a) and (b) and 20(2), the actuarially assumed interest rate shall be 8% with utilization of the 1983 group annuity and mortality table.

(12) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code and revenue service regulations under that section that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.